

AMENDED IN ASSEMBLY MAY 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2723

Introduced by Assembly Member Pavley

*(Coauthors: Assembly Members Cohn, Frommer, Koretz, Levine,
Lieber, Ruskin, Saldana, and Shirley Horton)*

(Coauthor: Senator Kuehl)

February 24, 2006

An act to add and repeal Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2723, as amended, Pavley. Electricity: solar energy: Low-Income Housing Development ~~Revolving Loan~~ Program.

~~Existing law establishes various revolving loan programs to provide loans for specified purposes, including recycling market development and renewable energy resources. Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to expand and accelerate the development of alternative sources of energy, including solar energy. Existing law requires the Energy Commission, until January 1, 2006, and to the extent that funds are appropriated for that purpose in the annual Budget Act, to implement a grant program to accomplish specified goals, including making solar energy systems cost competitive with alternative forms of energy.~~

Under existing law, the Public Utilities Commission (PUC) adopted the California Solar Initiative that provides incentive to customer-side photovoltaics and solar thermal electric project under one megawatt

and that 10% of the funds are to be used for low-income residential customers and affordable housing projects.

This bill would establish, until January 1, 2016, the Low-Income Housing Development and Nonprofit Building ~~Revolving Loan~~ Program (program) to help finance solar energy systems, as defined, in eligible low-income housing ~~and nonprofit buildings~~ located in the service areas of an electrical corporation. The bill would create the *Solar Initiative Trust Fund (fund) and the Low-Income Housing Development and Nonprofit Building ~~Revolving Loan~~ Program Fund (fund), and Account (account) in the fund.* The bill would require the ~~moneys in the fund to be annually appropriated by the Legislature, and used for the purpose of providing loans for program purposes the revenues collected by electrical corporations for the benefit of the in-state operation and development of solar energy resource technologies to be deposited in the fund and, upon appropriation by the Legislature, to be expended for the state's administration of the solar energy program. The bill would require that 10% of these revenues be transmitted, at least quarterly, to the State Energy Resources Conservation and Development Commission (Energy Commission) for deposit into the account, and upon appropriation by the Legislature, expended for the implementation of the program.~~

The bill would require the Energy Commission to ~~consider and evaluate the level of funding necessary to adequately fund the program to achieve the goal of placing solar energy systems on low-income or affordable housing units, or nonprofit buildings for each fiscal year of the program. The bill would provide that 10% of the moneys from the California Solar Initiative shall be use to fund the program. The bill would provide that any moneys not used by the program during the preceding years would able available to applicant that are eligible under the California Solar Initiative establish an advisory committee consisting of representatives from specified agencies and would require the committee to evaluate methods for providing assistance to encourage the use of solar technologies and to make recommendations to the Energy Commission on the implementation of the program.~~

The bill would require the Energy Commission to establish and collect a fee for each application for an allocation. The bill would require the ~~commission~~ Energy Commission to deposit the fees in the ~~Low-Income Housing Development and Nonprofit Building Application Fee Account, which the bill would create in the fund~~

account, and would authorize the Energy Commission to expend the revenues in the account, upon appropriation by the Legislature, to process applications.

The bill would prescribe requirements for repayment of allocations made pursuant to the program and would authorize the Department of Finance to audit the expenditure of an allocation or the computation of specified payments.

The bill would require the Energy Commission, by October 31, 2008, and by October 31 annually thereafter, to submit a report to the chairs of the legislative fiscal committees on the portfolio of loans issued pursuant to the program during the previous fiscal year, including the condition of the fund, and on the anticipated demand for the loan funds for the following fiscal year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. The Legislature finds and declares all of the~~
- 2 ~~following:~~
- 3 ~~(a) California has a pressing need to procure a steady supply~~
- 4 ~~of affordable and reliable peak electricity for affordable housing~~
- 5 ~~units.~~
- 6 ~~(b) Solar generated electricity is uniquely suited to~~
- 7 ~~California's needs because it produces electricity when~~
- 8 ~~California needs it most, during the peak demand hours in~~
- 9 ~~summer afternoons when the sun is brightest and air-conditioners~~
- 10 ~~are running at capacity.~~
- 11 ~~(c) Procuring solar electric generation capacity to meet peak~~
- 12 ~~electricity demand increases system reliability and decreases~~
- 13 ~~California's dependence on unstable fossil fuel supplies.~~
- 14 ~~(d) Solar generated electricity diversifies California's energy~~
- 15 ~~portfolio. California currently relies on natural gas for the bulk of~~
- 16 ~~its electricity generation needs. Increasing energy demands place~~
- 17 ~~increasing pressure on limited natural gas supplies and threaten~~
- 18 ~~to raise costs.~~
- 19 ~~(e) Roughly 20,000 affordable housing units will be built~~
- 20 ~~annually in California in the coming years, challenging energy~~
- 21 ~~reliability and affordability for those residents who can least~~
- 22 ~~afford inflated energy bills.~~

1 ~~(f) Investing in low-income housing solar electricity~~
2 ~~generation installations today will lower the costs of solar~~
3 ~~generated electricity for all Californians in the future.~~

4 ~~(g) Increasing California's solar electricity generation market~~
5 ~~will also bring additional manufacturing, installation, and sales~~
6 ~~jobs to the state at a higher rate than most conventional energy~~
7 ~~production sources.~~

8 ~~(h) Establishing a Low-Income Housing Development and~~
9 ~~Nonprofit Building Revolving Loan Program would be a~~
10 ~~cost-effective investment by ratepayers in peak electricity~~
11 ~~generation capacity, because as a result of the program ratepayers~~
12 ~~will recoup the cost of their investment through lower rates by~~
13 ~~avoiding purchases of electricity at peak rates, with additional~~
14 ~~system reliability and pollution reduction benefits.~~

15 ~~(i) A loan program would further establish, increase, and~~
16 ~~modify incentives and provide financing mechanisms for energy~~
17 ~~efficiency and photovoltaic capabilities for subsidized and~~
18 ~~affordable housing, and establish "zero energy homes" as a goal~~
19 ~~for low-income and affordable housing residents.~~

20 ~~(j) Solar energy systems provide substantial energy reliability~~
21 ~~and pollution reduction benefits. Solar energy systems also~~
22 ~~diversify our energy supply and thereby reduce our dependence~~
23 ~~on imported fossil fuels.~~

24 ~~SEC. 2.~~

25 ~~SECTION 1.~~ Chapter 5.6 (commencing with Section 25460)
26 is added to Division 15 of the Public Resources Code, to read:

27
28 CHAPTER 5.6. LOW-INCOME HOUSING DEVELOPMENT AND
29 ~~NONPROFIT BUILDING REVOLVING LOAN~~ NONPROFIT BUILDING
30 PROGRAM
31

32 25460. As used in this chapter, the following terms have the
33 following meanings:

34 (a) "Account" means the Low-Income Housing Development
35 and Nonprofit Building Program Account created pursuant to
36 paragraph (1) of subdivision (b) of Section 25460.7.

37 ~~(a)~~

38 (b) "Allocation" means a loan of funds by the commission,
39 loan guarantee, rebate, or other incentive established pursuant to
40 this chapter.

~~(b)~~

(c) “Building” means ~~any~~ *an* existing or planned structure for residential uses that includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

~~(e)~~

(d) “California Solar Initiative” means an initiative adopted by the Public Utilities Commission in Decision 06-01-024.

~~(d)~~

(e) “Electrical corporation” has the meaning set forth in Section 218 of the Public Utilities Code.

~~(e) “Fund” means the Low-Income Housing Development and Nonprofit Building Revolving Loan Program Fund created by Section 25461.~~

(f) “Low-income residential housing” means affordable residential housing units that are defined in Section 50052.5 or 50053 of, or are undertaken, constructed, or operated pursuant to Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of, the Health and Safety Code.

~~(g) “Nonprofit building” means a building owned by a nonprofit entity.~~

~~(h)~~

(g) “Nonprofit entity” means an entity as defined in paragraphs (2) and (3) of subdivision (c) of Section 71116.

~~(i)~~

(h) “Program” means the Low-Income Housing Development and Nonprofit Building Revolving Loan Program created by Section 25460.5.

~~(j)~~

(i) “Solar energy system” means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity that is qualified by the commission for participation in the program.

25460.5. The Low-Income Housing Development and Nonprofit Building ~~Revolving Loan~~ Program is hereby established. The purposes of the program are as follows:

(a) To provide low cost financing for ~~up to 50,000~~ solar energy systems, ~~not to exceed 75 percent of the total costs of the solar energy systems,~~ in low-income residential housing units

1 located in the service areas of an electrical corporation
2 contributing funds to support the program.

3 (b) To be a cost-effective investment by ratepayers in peak
4 electricity generation capacity that enables ratepayers to recoup
5 the cost of their investment through lower rates as a result of
6 avoiding purchases of electricity at peak rates generated by
7 traditional powerplants and peaker generation units, with
8 additional system reliability and pollution reduction benefits.

9 (c) *To reduce net energy consumption in low-income*
10 *residential buildings by integrating energy-efficient technologies*
11 *with solar technologies.*

12 25460.7. (a) *The Solar Initiative Trust Fund is hereby*
13 *created in the State Treasury. Revenues collected by electrical*
14 *corporations for the benefit of in-state operation and*
15 *development of solar energy resource technologies shall be*
16 *deposited into the fund. The moneys in the fund may be expended*
17 *for the state's administration of the solar energy program upon*
18 *appropriation by the Legislature in the annual Budget Act.*

19 (b) *The Low-Income Housing Development and Nonprofit*
20 *Building Program Account is hereby created in the Solar*
21 *Initiative Trust Fund created pursuant to subdivision (a). Ten*
22 *percent of the revenues collected by electrical corporations for*
23 *the benefit of in-state operation and development of solar energy*
24 *resource technologies shall be transmitted to the commission at*
25 *least quarterly for deposit in the account. The moneys in the*
26 *account may be expended for the purpose of this chapter upon*
27 *appropriation by the Legislature in the annual Budget Act.*

28 (c) *Upon notification by the commission, the Controller shall*
29 *pay the allocation, made by the commission pursuant to this*
30 *chapter, of moneys from the account that have been appropriated*
31 *by the Legislature for the purposes of this chapter. The eligibility*
32 *of an applicant for an allocation shall be determined by the*
33 *commission based on the procedures it adopts under this*
34 *chapter.*

35 ~~25461. (a) The Low-Income Housing Development and~~
36 ~~Nonprofit Building Revolving Loan Program Fund is hereby~~
37 ~~created in the State Treasury and, upon annual appropriation by~~
38 ~~the Legislature, shall be used for allocation by the commission.~~
39 ~~The fund shall be capitalized by transfers from the California~~
40 ~~Solar Initiative.~~

~~(b) Notwithstanding Section 7550.5 of the Government Code, on or before October 31, 2008, and on or before October 31 annually thereafter, the commission shall submit a report to the chairs of the legislative fiscal committees on the portfolio of loans issued pursuant to this chapter during the previous fiscal year. The report shall include, but not be limited to, all of the following:~~

~~(1) The total amount of outstanding loans.~~

~~(2) The total amount of outstanding principal and interest.~~

~~(3) The total amount of late payments and defaults.~~

~~(4) The interest rates charged on the loans.~~

~~(c) Notwithstanding Section 7550.5 of the Government Code, on or before October 31, 2008, and on or before October 31 annually thereafter, the commission shall submit a report to the chairs of the legislative fiscal committees on the condition of the revolving fund, including an estimate of anticipated demand for loan funds for the next fiscal year. The commission's report shall measure the program's effectiveness by including, but not be limited to, all of the following information:~~

~~(1) The total annual kilowatts generated by solar energy system.~~

~~(2) The annual financial savings to low-income households and nonprofit entity generated by solar energy system.~~

~~(3) An analysis of how systems funded by the program are being financed, including any other grants, loans, rebates, incentives, tax incentives, or tax subsidies being used by the developer or applicant.~~

~~(d) On or before October 31, 2008, the commission shall submit a report to the chairs of the legislative fiscal committees on how it intends to implement the sunset provision in subdivision (a) of Section 25466.5.~~

~~(e) The moneys in the fund shall consist of both of the following:~~

~~(1) Moneys from sources set forth in Section 25461.5 or 25461.7, as appropriate.~~

~~(2) Moneys authorized by or required to be deposited in the fund by the Legislature and moneys received by the commission pursuant to subdivision (c) of Section 25462.5, or Section 25463.5 or 25464.~~

~~(f) The commission shall administer the fund.~~

~~(g) The commission shall consult with create an advisory committee that includes representatives from the California Tax Credit Allocation Committee (TCAC), the California Housing Finance Agency, and the Department of Housing and Community Development to develop guidelines for the fund program.~~

~~(h) The commission may expend the moneys in the fund to make loans to local governing bodies, private businesses, nonprofit development corporations, and nonprofit entities to provide funding for solar energy systems in low-income housing units and nonprofit buildings.~~

~~(i) The commission may make loans for innovative projects and programs. The amount expended for these loans may not exceed 5 percent of the annual appropriation from the fund.~~

~~25461.5. (a) During each fiscal year, the commission shall consider and evaluate the level of funding that is necessary to adequately fund the program to achieve the goal of placing solar energy systems on low-income or affordable housing units and nonprofit buildings for the following fiscal year.~~

~~(b) For each fiscal year, 10 percent of the moneys from the California Solar Initiative shall be used to fund the program.~~

~~(c) Moneys in the fund not used by the program during the preceding year shall be made available to other applicant eligible for funding through the California Solar Initiative.~~

~~25462. (a) To be eligible for participation in the program, a building or housing unit shall satisfy all of the following:~~

~~(1) Be low-income residential housing or a nonprofit building.~~

~~(2) Be within the service area of an electrical corporation.~~

~~(3) Be at least 10 percent more energy efficient than required by the current standards specified in the California Building Standards Code contained in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations, or have implemented measures to reduce the energy use of the building or housing unit by 10 percent, as calculated pursuant to compliance models set forth in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations.~~

~~(b) An eligible building or housing unit that exceeds energy efficiency standards required by Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations by more than 10 percent shall receive financing at a rate of 0.25~~

1 percent lower than the lowest applicable interest rate available to
2 the commission for every 5 percent additional improvement in
3 energy efficiency.

4 (b) The advisory committee shall do all of the following:

5 (1) (A) Evaluate and recommend to the commission methods
6 of providing assistance to encourage the use of solar
7 technologies to attain progress towards attaining a net neutral
8 electricity utilization by low-income residents. The methods of
9 providing assistance that may be considered include, but are not
10 limited to, a revolving loan program, a loan guarantee program,
11 rebates, or other proven incentives to maximize effectiveness.

12 (B) If the advisory committee recommends the creation of a
13 revolving loan program, it shall include, in its recommendations,
14 both of the following:

15 (i) The use of an interest rate that is not less than the current
16 discount rate, as published by the Federal Reserve Bank of San
17 Francisco.

18 (ii) Procedures for default situations and situations when the
19 borrower's building no longer qualifies for the loan due to a
20 change in low-income status of the building.

21 (2) Develop guidelines and applicant eligibility criteria that
22 will do all of the following:

23 (A) Provide greater solar incentives for residents who
24 implement energy-efficient applications.

25 (B) Benefit the most financially constrained residential
26 electricity customers first.

27 (C) Encourage the use of solar generation panels for new
28 low-income building construction.

29 (3) Consider applying time-variant pricing for qualifying
30 residential customers to mitigate demand during peak times.

31 (4) Require energy-efficiency audits for qualifying residents.

32 (c) The commission shall adopt and implement the
33 recommendations made by the advisory committee pursuant to
34 subdivision (b).

35 ~~25462.5.~~

36 25462. (a) An applicant may submit an application to the
37 commission for an allocation for the purpose of financing up to
38 75 percent of the costs incurred in implementing a solar energy
39 system the program. The application shall be in the form and

1 contain the information that the ~~commission~~ *advisory committee*
2 shall prescribe.

3 ~~(b) An application may be for the purpose of financing the~~
4 ~~applicant's share of the costs for implementing a solar energy~~
5 ~~system that are to be jointly funded through a state, local, or~~
6 ~~federal-local program.~~

7 ~~(c) An applicant shall not receive loans from the revolving~~
8 ~~fund in excess of 75 percent of the total cost of the solar energy~~
9 ~~system. The commission shall ensure that the amount of the loan~~
10 ~~from the revolving fund, when combined with all other grants,~~
11 ~~loans, rebates, tax subsidies, tax incentives or any other source of~~
12 ~~funding or incentive provided the applicant, does not exceed 75~~
13 ~~percent of the total actual cost of the solar energy system.~~

14 ~~(d) The commission may approve an application if the~~
15 ~~applicant has furnished information satisfactory to the~~
16 ~~commission showing both of the following:~~

17 ~~(1) That the building or housing is eligible pursuant to Section~~
18 ~~25462.~~

19 ~~(2) That the costs of the solar energy system, plus interest on~~
20 ~~state funds loaned, calculated in accordance with Sections 25463~~
21 ~~and 25463.5, will be covered by the savings in the cost of energy~~
22 ~~during the repayment period of the allocation. The savings shall~~
23 ~~be calculated in a manner prescribed by the commission.~~

24 ~~(e) (1)–~~

25 ~~(b) The commission shall establish and collect a fee for each~~
26 ~~application for an allocation authorized by this chapter. The fee~~
27 ~~shall be deposited into the account and set at a level that is~~
28 ~~sufficient to reimburse for the support of the commission for the~~
29 ~~cost of the entire application process.~~

30 ~~(2) The commission shall deposit the fees received pursuant to~~
31 ~~this subdivision in the Low-Income Housing Development and~~
32 ~~Nonprofit Building Application Fee Account, which is hereby~~
33 ~~created in the fund. The commission may expend the revenues in~~
34 ~~the Low-Income Housing Development and Nonprofit Building~~
35 ~~Application Fee Account, upon appropriation by the Legislature,~~
36 ~~to process applications pursuant to this chapter.~~

37 ~~(f)–~~

38 ~~(c) For purposes of this section, “applicant” means a local~~
39 ~~governing body, private business, nonprofit development~~
40 ~~corporation, or nonprofit entity.~~

1 25463. Annually at the conclusion of each fiscal year, but not
2 later than October 31, each applicant that has received an
3 allocation pursuant to this chapter shall compute and report to the
4 commission the cost of the energy saved as a result of
5 implementing the solar energy system funded by the allocation.
6 The cost shall be calculated in a manner prescribed by the
7 commission.

8 ~~25463.5. (a) An applicant receiving an allocation pursuant to~~
9 ~~this chapter shall repay the principal amount of the allocation,~~
10 ~~plus interest, in not more than 30 equal semiannual payments, as~~
11 ~~determined by the commission. The first semiannual payment~~
12 ~~shall be made on or before December 22 of the fiscal year~~
13 ~~following the year in which the solar energy system is completed.~~
14 ~~The repayment period may not exceed the life of the equipment,~~
15 ~~as determined by the commission, or the time period in which the~~
16 ~~building or housing unit where the solar energy system will be~~
17 ~~installed maintain its low-income housing status.~~

18 ~~(b) Notwithstanding any other provision of law, the~~
19 ~~commission shall, unless it determines that the purposes of this~~
20 ~~chapter would be better served by establishing an alternative~~
21 ~~interest rate schedule, periodically set interest rates on the loans~~
22 ~~based on the lowest applicable interest rate available to the~~
23 ~~commission and at rates not less than 3 percent per annum.~~

24 ~~(c) The applicant receiving an allocation pursuant to this~~
25 ~~chapter shall annually budget an amount at least sufficient to~~
26 ~~make the semiannual payments required in this section. The~~
27 ~~amount shall not be raised by the levy of additional taxes but~~
28 ~~shall instead be obtained by a savings in energy costs or other~~
29 ~~sources.~~

30 ~~25465.5.~~

31 25464. The commission may expend from the *fund account*
32 an amount to pay for the actual administrative costs incurred by
33 the commission pursuant to this chapter. That amount shall not
34 exceed 5 percent of the total appropriation, to be held in reserve
35 and used to defray costs incurred by the commission for
36 allocations made by the commission pursuant to this chapter.
37 *amount necessary for the administration of the program, upon*
38 *appropriation by the Legislature.*

1 ~~25466.~~

2 25465. The Department of Finance, at its discretion, may
3 audit the expenditure of any allocation made pursuant to this
4 chapter ~~or the computation of any payment made pursuant to~~
5 ~~Section 25463.5.~~

6 ~~25466.5.~~

7 25466. (a) Except as provided in subdivision (b), this chapter
8 shall remain in effect only until January 1, 2016, and as of that
9 date is repealed, unless a later enacted statute, which is enacted
10 before January 1, 2016, deletes or extends that date.

11 (b) All loans outstanding as of January 1, 2016, shall continue
12 to be repaid to the commission ~~on a semiannual basis, as~~
13 ~~specified in Section 25463.5, consistent with the terms and~~
14 ~~conditions recommended by the advisory committee and adopted~~
15 ~~by the commission pursuant to Section 25461~~ until paid in full.
16 All unexpended moneys in the ~~fund~~ account on January 1, 2016,
17 and thereafter, except to the extent those ~~funds~~ moneys are
18 encumbered pursuant to this chapter, shall revert to the ~~General~~
19 *Solar Initiative Trust Fund*.